



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,460	01/21/2004	Noriko Miyagi	247882US2	1371
22850 7590 04/22/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER RILEY, MARCUS T				
ART UNIT 2625		PAPER NUMBER		
NOTIFICATION DATE 04/22/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/760,460

**Applicant(s)**

MIYAGI ET AL.

**Examiner**

MARCUS T. RILEY

**Art Unit**

2625

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: attached. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-21.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Twyler L. Haskins/  
Supervisory Patent Examiner, Art Unit 2625

/Marcus T Riley/  
Examiner, Art Unit 2625

Continuation of 3:

Applicant submits that Matsumoto et al do not disclose or suggest determination of an image attribute of a first image signal on a pixel by pixel basis to generate an attribute signal indicating the image attribute, as defined in independent Claims 1, 14, and 18. The deficiencies in Matsumoto et al are not overcome by Nakajima.:

Examiner submits that Matsumoto et al. does disclose or suggest determination of an image attribute of a first image signal on a pixel by pixel basis to generate an attribute signal indicating the image attribute, as defined in independent Claims 1, 14, and 18. Matsumoto '125 discloses an image processing apparatus, comprising: a communication unit configured to exchange data with an external device ("...and an output interface 78 consisting of a bidirectional interface for outputting information to an external device through communication means such as a network 79." column 6, lines 33-36); discloses an attribute determination unit that determines an image attribute of a first image signal on a pixel by pixel basis to generate an attribute signal indicating the image attribute ("As shown in FIG. 2, each image file (20) contains following components: (a) first attribute information (21) Summary information of the object image, including the format ID, title, producer, keyword, comment, final owner, revision number (number of times of savings of the object), total editing time, date and time of final print, date and time of original preparation, date and time of final storage, thumbnail attribute and application used for preparation..." column 3, lines 11-21). See also ("The image of each tile is memorized in a data format of JPEG compression, single color or non compression. The JPEG compression is an image compressing method of international standard defined by ISO/IEC JTC1/SC29. The single color is a data format, in case an entire tile is substantially composed of a single color, of representing the color of the tile by a single color instead of memorizing the individual pixel values. This data format is effective particularly for an image generated by computer graphics." column 5, lines 53-61).

Nakajima does overcome the deficiencies in Matsumoto et al. Accordingly, independent claims 1, 14, and 18 as presently amended (and the claims dependent therefrom) are not patentably defined over the art of record. Thus, Applicant's arguments with respect to Claims 1-21 remain pending and have been fully considered but they are not persuasive.

Continuation of 11:

Claims 1-21 remain pending and does NOT place the application in condition for allowance because the final rejected claims still do not overcome the prior art of record.